

OCT - 9 2024

US DISTRICT COURT
WESTERN DISTRICT OF NC

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
SHELBY DIVISION**

Thurman Brown, Heir and Lead Plaintiff,
on behalf of himself and others similarly situated,
Plaintiffs,

v.

Sarah Jane Spikes, Murrell K. Spikes, Rickey McCluney, Mark D. Lackey, the Registrar of
Deeds for Cleveland County, and others to be determined,

Defendants.

Civil Action No. 1:24-cv-249-MR

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

I. PRELIMINARY STATEMENT

1. This is a class action brought by Thurman Brown, an heir to the estate of Henrietta Flack Withrow, along with other similarly situated heirs, tenants, and third-party purchasers, against Sarah Jane Spikes and her associates for fraudulent property transfer, estate mismanagement, professional negligence, and related fraudulent schemes.

2. Plaintiffs bring this action under the Federal Rules of Civil Procedure, Rule 23, seeking compensation, restitution, and injunctive relief for the harm caused by the defendants' actions in connection with the estate of Henrietta Flack Withrow. The fraudulent activities, which began as early as 2005, involved the illegal transfer of estate property through deed fraud, title washing, and misrepresentation. Plaintiffs also bring claims of professional negligence against attorneys involved in facilitating these fraudulent transactions and claim negligence against the Cleveland County Registrar of Deeds.

3. This Court has jurisdiction over this action under 28 U.S.C. § 1332(d), as the amount in controversy exceeds \$5,000,000, and members of the plaintiff class are from different states than the defendants, satisfying the diversity jurisdiction requirements of the Class Action Fairness Act (CAFA).

II. JURISDICTION AND VENUE

4. This Court has jurisdiction over this matter under 28 U.S.C. § 1331 because the claims arise under federal law, and 28 U.S.C. § 1332(d) as the amount in controversy exceeds \$5,000,000, exclusive of interests and costs, and this is a class action in which at least one plaintiff is diverse in citizenship from the defendants.

5. Venue is proper in the Western District of North Carolina under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred in this judicial district, and the real property at issue is located in this district, specifically in Cleveland County, North Carolina.

III. PARTIES

Plaintiffs:

6. Thurman Brown is a resident of North Carolina and an heir to the estate of Henrietta Flack Withrow. He is the lead plaintiff representing himself and others similarly situated. As a direct result of the defendants' fraudulent actions, Mr. Brown has suffered financial losses, emotional distress, and a delay in receiving his rightful inheritance.

7. The class of plaintiffs includes:

- Other Heirs of Henrietta Flack Withrow's Estate, who have similarly been harmed by fraudulent property transfers and estate mismanagement.
- Tenants of Estate Properties, who were unlawfully evicted or misled about their tenancy due to fraudulent deeds and title washing.
- Third-Party Purchasers, who unknowingly bought estate properties through fraudulent transfers and have suffered financial and legal harm.
- Individuals Harmed by Deed Fraud and Title Washing, including displaced property owners or financially harmed individuals.
- Co-Signatories or Co-Owners of properties involved in fraudulent transfers, who now face legal disputes over their rights to these properties.

Defendants:

8. Sarah Jane Spikes is a resident of Cleveland County, North Carolina, and was the executor of the estate of Henrietta Flack Withrow. As executor, she participated in and facilitated the fraudulent transfer of estate property and mismanaged estate assets, causing financial harm to the heirs and beneficiaries.

9. Murrell K. Spikes and Rickey McCluney are residents of North Carolina who knowingly participated in the fraudulent property transfers orchestrated by Sarah Jane Spikes, benefiting from illegal conveyances of estate property.

10. Mark D. Lackey, an attorney licensed in North Carolina, is named for his role in preparing and facilitating the fraudulent property transfers without conducting proper title searches or verifying the legitimacy of the ownership claims.

11. Thomas W. Martin, an attorney licensed in North Carolina, is named for his role in preparing and facilitating the fraudulent property transfers without conducting proper title searches or verifying the legitimacy of the ownership claims, to aid and abet cover-up of deed washing by Sarah Jane Spikes.

1. Role of Attorneys in Deed Transactions:

Attorneys play a critical role in real estate transactions and are responsible for conducting the due diligence necessary to ensure that a deed transaction is legitimate and legal. Their responsibilities include, but are not limited to:

- Title Searches: Attorneys are responsible for conducting thorough title searches to verify that the seller has the legal right to transfer the property and is free from liens, claims, or other encumbrances.
- Deed Preparation and Execution: Attorneys draft, review, and execute deeds, ensuring that the legal description of the property is accurate, the parties involved are properly identified, and that the deed complies with state laws.
- Advice and Representation: Attorneys provide legal advice to clients regarding the validity of the transaction and ensure that the property transfer is conducted according to the client's legal rights and the terms of the transaction.
- Due Diligence: Attorneys must verify the authenticity of signatures, ensure proper witness and notary processes are followed, and scrutinize any potential red flags in the transaction.

Failing to perform these duties, particularly in cases involving fraudulent transfers, constitutes professional negligence or even gross negligence if the attorney completely neglects these basic legal responsibilities.

2. Gross Negligence by Attorneys:

Gross negligence is more than just ordinary negligence. It involves a reckless disregard for the safety or rights of others. In the context of deed transactions, gross negligence occurs when an attorney:

- Fails to conduct a title search or conducts an inadequate search that overlooks obvious defects or encumbrances.
- Ignores irregularities in the transaction, such as suspicious multiple transfers in a short time period, forged signatures, or inconsistencies in the ownership chain.
- Fails to verify ownership history, thus allowing fraudulent transactions to proceed without challenge.
- Neglects to advise clients of risks associated with purchasing or transferring a property with potential legal issues related to title or ownership.

For example, in cases like the ones involving Sarah Jane Spikes, an attorney who failed to perform title checks, ignored red flags in ownership documents, or neglected basic due diligence is likely guilty of gross negligence. Such actions directly cause harm to beneficiaries, third-party purchasers, or tenants who rely on the attorney's competence to protect their interests.

12. The Registrar of Deeds for Cleveland County is responsible for recording property deeds in Cleveland County, North Carolina, and has negligently allowed the fraudulent deeds to be recorded without sufficient scrutiny.

IV. CLASS ACTION ALLEGATIONS

13. Plaintiffs bring this action on behalf of themselves and all others similarly situated pursuant to Rule 23(a), 23(b)(1), 23(b)(2), and 23(b)(3) of the Federal Rules of Civil Procedure.

14. The proposed class consists of all heirs, tenants, third-party purchasers, and individuals affected by fraudulent property transfers related to the estate of Henrietta Flack Withrow.

15. The members of the class are so numerous that joinder of all members is impracticable. The exact number of class members is unknown at this time, but it is believed to be in the hundreds.

16. There are common questions of law and fact that predominate over any questions affecting only individual members. These include, but are not limited to:

- Whether the defendants engaged in fraudulent property transfers.
- Whether the defendants breached their fiduciary duties.
- Whether the defendants participated in or facilitated deed fraud and title washing.
- The extent of the financial harm caused to the plaintiffs by the defendants' actions.
- Whether the defendants are liable for damages and restitution.

17. The claims of the lead plaintiff, Thurman Brown, are typical of the claims of the class, as all were similarly harmed by the defendants' actions in connection with the fraudulent transfer of estate property.

18. The plaintiff and the class members will fairly and adequately protect the interests of the class. The lead plaintiff has no interests adverse to or in conflict with the class.

19. A class action is superior to other methods for the fair and efficient adjudication of this controversy.

V. FACTUAL ALLEGATIONS

20. The estate of Henrietta Flack Withrow, a Cleveland County resident, became the subject of fraudulent property transfers beginning in 2005 under the stewardship of the estate's executor, Sarah Jane Spikes.

21. Sarah Jane Spikes, along with Murrell K. Spikes and Rickey McCluney, facilitated and participated in the fraudulent transfer of estate properties through deed fraud and title washing. This allowed them to transfer estate assets to individuals who had no legal rights to the properties.

22. As a result, estate heirs such as Thurman Brown were deprived of their rightful inheritance, while third-party purchasers and tenants suffered financial harm from being misled about ownership rights.

23. Mark D. Lackey, as the attorney responsible for preparing and filing these fraudulent deeds, failed to conduct the necessary due diligence to prevent these fraudulent transfers.

24. The Registrar of Deeds for Cleveland County recorded these fraudulent property transfers without proper verification, thus contributing to the perpetuation of the fraud.

VI. CAUSES OF ACTION

Count I: Fraud

(Against Sarah Jane Spikes, Murrell K. Spikes, and Rickey McCluney)

25. Plaintiffs reallege and incorporate by reference all previous paragraphs.

26. Defendants engaged in fraudulent property transfers, knowingly misrepresenting their legal rights to the estate properties and causing harm to the plaintiffs.

Count II: Breach of Fiduciary Duty

(Against Sarah Jane Spikes) (See appendix A)

27. As executor, Sarah Jane Spikes owed a fiduciary duty to act in the best interest of the estate beneficiaries.

28. By engaging in self-dealing and fraudulent transfers, she breached that duty, causing significant financial harm to the heirs.

Count III: Professional Negligence

(Against Mark D. Lackey)(See appendix B)

29. Mark D. Lackey failed to conduct title searches and exercise proper care in verifying the legitimacy of property transfers, contributing to the fraudulent deeds.

Count IV: Professional Negligence

(Against Thomas W. Martin) (See appendix C)

30. Thomas W. Martin failed to conduct title searches and exercise proper care in verifying the legitimacy of property transfers, contributing to the fraudulent deeds, that aid and abet cover-up of fraudulent transactions.

Count V: Negligence

(Against Registrar of Deeds for Cleveland County)

31. The Registrar of Deeds failed to scrutinize the property transfers properly, allowing fraudulent deeds to be recorded.

VI: PRAYER FOR RELIEF

Plaintiffs request that the Court:

1. Certify this action as a class action under Rule 23 of the Federal Rules of Civil Procedure.
2. Award compensatory damages to the plaintiffs for their financial losses.
3. Award punitive damages for the egregious nature of the fraudulent actions.

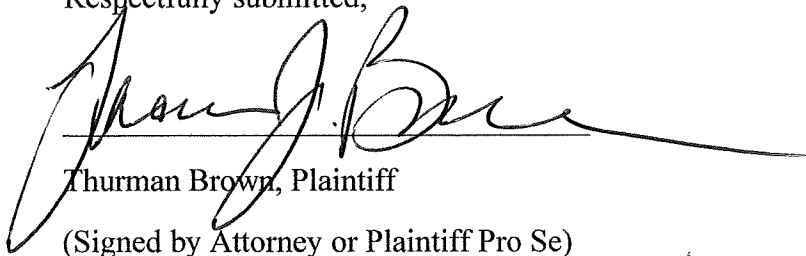
4. Issue a court order voiding all fraudulent deeds and restoring rightful ownership to the estate beneficiaries.
5. Appoint a court-supervised trustee to manage the estate.
6. Award attorneys' fees, costs, and expenses incurred in bringing this action.
7. Grant any other relief the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a trial by jury for all issues so triable.

Dated: October 3, 2024

Respectfully submitted,



Thurman Brown, Plaintiff

(Signed by Attorney or Plaintiff Pro Se)

1809 Weaver Road
Shelby, NC 28150
phone # 347-782-4097

Service Delivery List

1. Sarah Jane Spikes**

Role: Former Executor of Henrietta Flack Withrow's Estate

Address:

1809 Weaver Road,

Shelby, NC 28150

Phone number 704-482-4682

2. Murrell K. Spikes

Role: Participant in Fraudulent Transfers

Address:

1809 Weaver Road,

Shelby, NC 28150

Phone number 704-884-5129

3. Rickey McCluney

Role: Participant in Fraudulent Transfers

Address:

Pactive Road,

Shelby, NC 28150

Phone number 704-466-5221

4. Mark D. Lackey

Role: Attorney Involved in Deed Transactions

****Address:****

400 W Warren St, Shelby, NC 28150

Phone number 704-487-4511

5. Cleveland County Registrar of Deeds

Role: Negligence in Recording Fraudulent Transactions

****Address:****

Cleveland County Register of Deeds Office

311 East Marion Street,

Shelby, NC 28150

****Contact:****

Phone: (704) 484-4834

6. Thomas W. Martin, esq

Role: Fraudulent Cover-up

****Address:****

439 Neisler St, Shelby, NC 28152